

# Notice of Allowability

Application No.

09/629,368

Examiner

Eisa B Elhilo

Applicant(s)

BABINSKI ET AL.

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the RCE filed on 1/16/2004.
2. ☒ The allowed claim(s) is/are 59-75.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

Brian P. Mruk  
BRIAN P. MRUK  
PRIMARY EXAMINER  
TECH CENTER 1700

### DETAILED ACTION

- 1 This action is responsive to the amendment filed on January 16, 2004.
- 2 The cancellation of claims 34-58 is acknowledged. Pending claims are 59-75.
- 3 A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/16/2004 has been entered.
- 4 Claims 59-75 are allowed.

### STATEMENT OF REASONS FOR ALLOWANCE

- 5 The following is an examiner's statement of reasons for allowance:

Nogami et al (WO 98/56337) teaches an aqueous malodor reducing composition (see page 1, lines 9-17). The composition comprises, from about 0.0001 % to about 1% by weight of fragrance materials such as amber and musk (see page 8, lines 7-10) having C log P of not less than 3.5. (see page 7, line 5), from about 0.1% to 35% surfactants such as nonionic, and/or anionic and/or cationic and/or ampholytic (see 8, lines 14-16), diethylene glycol as non-volatile organic compound (see page 20, line 16), alcohol ethoxylates (see page 11, line 16), metal salts such as copper and zinc salts as odor absorbers as well as other adjunct odor-controlling materials, antistatic and insect and moth repelling agents (see page 25, lines 3-7). Nogami also teaches a method for using aqueous malodor reducing composition. The method comprises the step of applying of the composition to the fabrics, households or skin (see page 59, lines 33-35 and page 60, lines 1-11). However, patentee differs from the applicant in that

Art Unit: 1751

Nogami et al does not teach or suggest malodor composition comprising hydrophobic fragrance selected from the group consisting of fresh clean spicy, floral, citrus, ozone and marine type perfumes as required in the instant claims. Also patentee differs from the applicant in that Nogami et al teaches non-limiting examples of volatile organic compounds to be used as solubilizing agents that include C1-C4 monohydric alcohols and C2-C6 polyhydric alcohols, which are excluded by the instant amended claims. Accordingly, the claimed subject matter as a whole would not have been obvious to one having ordinary skill in the art of malodor reducing formulations.

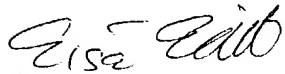
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eisa B Elhilo whose telephone number is (571) 272-1315. The examiner can normally be reached on M - F (8:00 -5:30) with alternate Friday off.

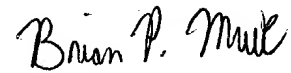
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1751

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Eisa Elhilo  
March 8, 2004



BRIAN P. MUHL

PRIMARY EXAMINER

TECH CENTER 1700